

REMARKS

A. Introduction

The remarks herein are responsive to the Office Action dated November 1, 2006. Claims 11, 13-18 are currently pending in this application and stand rejected by the Examiner. To expedite prosecution of the pending claims, Applicant has amended Claims 11 and 18 without prejudice. Also, Applicant's attorney thanks the Examiner for his time in conducting a telephone conference on January 19, 2007.

B. Amendment to the Claims

Claim 11 has been amended to recite, among other things, that the "distal end further comprising a collection bag." Support for this claim amendment can be found at least in paragraphs [6], [7], [8], [9] and [10], and in Figures 4 and 5 of the originally filed specification. Further, Claim 18 was amended to more clearly recite that, among other things, the "stop mechanism configured to selectively control the vacuum by reducing the inner diameters." Support for this claim amendment can be inferentially found at least in paragraphs [10], [27], [28] and [29], and in Figures 4 and 5 of the originally filed specification. The claims as pending reflect patentable subject matter over U.S. Patent No. 2,115,298 to Brown, and U.S. Patent No. 5,281,229 to Neward, and U.S. Patent No. 5,019,086 to Neward.

C. Claim Rejections Under 35 U.S.C. § 112

Figure 5 from the originally filed specification shows that the stop mechanism selectively reduces the inner diameter of both the lumen and the collection bag, thereby inherently increasing and decreasing the amount of vacuum. Therefore, Applicant respectfully submits that the rejection of Claim 18 under 35 U.S.C. § 112, first paragraph is improper because written description for Claim 18 may be found at least in Figure 5.

Appl. No. : 10/784,906
Filed : February 23, 2004

D. Claim Rejections Under 35 U.S.C. § 102

Brown teaches a snare wire 20 that is “a fine gauge metal wire” that the operator uses to “sever the tonsil, which is done by merely clinching the hand.” See Neward ('229), column 3, lines 6-52. Therefore, such clinching action would sever a collection bag placed inside the lumen disclosed by Brown. Thus, Applicant respectfully submits that Brown fails to disclose, teach or suggest all the limitations of Claim 11, and thus, Claim 11 is allowable over the cited art.

E. Claim Rejections Under 35 U.S.C. § 103

2 Neward ('229) and Neward ('086) does not teach a flexible portion 14C that decreases the diameter of the rubber liner 30. See Neward ('229), column 3, lines 1-5, and Neward ('086), Fig. 2. Thus, Applicant respectfully submits that Neward ('229) and Neward ('086) fail to disclose, teach or suggest all the limitations of Claim 11, and thus, the Examiner has not established an adequate prima facie rejection for obviousness. See *In re Vaeck*, 947 F.2d 488 (Fed. Cir. 2001); see also, MPEP § 2142. Therefore, Applicant submits that Claim 11 is allowable over the cited art.

CONCLUSION


For the reasons presented above, Applicant respectfully submits that this application, as amended, is in condition for allowance. If there are any further hindrance to allowance of the pending claims, Applicant invites the Examiner to contact the undersigned.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: 1/25/07

By: 
Vito A. Canuso III
Registration No. 35,471
Attorney of Record
Customer No. 20,995
(949) 760-0404

3340632 / 012407